

REMARKS

Claims 97-116 remain in the application.

At the top of page 3 of the Office Action, the Examiner notes that the reference to a forming station in FIG. 4 at line 31 of page 16 is in error. This has been corrected as the reference should be to FIG. 9.

Claim 83 was rejected under 35 U.S.C. § 112, ¶ 1, on grounds that it recited subject matter that is not disclosed in the specification and was not an original claim. The subject matter of claim 83 corresponds to that of originally presented claim 30, and is described on pages 24 and 25 of the specification with reference to FIGS. 16 and 18. The new claims include subject matter that is similar to that in claim 83, and such claims clearly are supported by the original claims, and by the original specification and drawing.

Claims 82-85 were rejected under 35 U.S.C. § 112, ¶ 2, because of insufficient or confusing antecedent basis for "the side wall." The new claims have been revised as suggested by the Examiner to remove this rejection.

Claims 82 and 85 were rejected under 35 U.S.C. § 102(b) on U.S. Patent No. 4,533,065 to Chazal et al.

Claim 83 was rejected under 35 U.S.C. § 103(b) on U.S. Patent No. 4,533,065 to Chazal et al taken with U.S. Patent No. 5,679,109 to Gics and/or U.S. Patent No. 4,007,670 to Albano et al.

Claim 84 was rejected under 35 U.S.C. § 103(a) on U.S. Patent No. 4,533,065 to Chazal et al taken with U.S. Patent No. 4,007,670 to Albano et al.

The patent to Chazal et al does not disclose a tray part having a bottom and a peripheral sidewall to which a flange forming collar is attached. Instead, the Chazal et al part 11 is simply a

flat panel 40 with a plurality of spaced-apart tabs 41-48 for attaching the flat panel 40 to the sidewalls 31-34 of the part 10 to form a container bottom. The spaced-apart tabs defined by the panels and flanges 41-48 on the part 11 do not form a peripheral sidewall, and the part 11 is not a tray — it is simply a flat bottom panel with spaced attachment tabs.

In rejecting the method claims on Chazal et al, the Examiner relies on a description of the final assembly of the blanks 10 and 11 in lines 35-45 of column 3, and on a misinterpretation of the Chazal et al assembly method as described in column 4.

Chazal et al discloses two methods of assembling a container. In the method of FIGS. 17-21, the container flange and sidewall and the container bottom are simultaneously bent and assembled in a common mold.

In the method explained in column 4, the flange and sidewall blank 10 is bent to provide sidewalls 31, 32, 33 and 34 integral with the flange or rim 30. See lines 6-10 of column 4. While holding the rim 30 of the blank 10, the bottom forming blank 11 is positioned over the punched flange and sidewall blank 10, and another punch is applied against the bottom 40 of the blank 11. This bends the bottom tabs 41, 42, 43, 44, 45, 46, 47 and 48 of blank 11 upwardly. See lines 10-19 of column 4.

Chazal et al form the bottom tabs inside of the container sidewall 31-34, and bring the flange/sidewall portion and the bottom portion into engagement with one another before the bottom portion 40 is formed. The bottom blank 11 is formed while it is in engagement with the flange/sidewall blank 10.

In the present application, a preformed tray is first erected to have a tray bottom and a tray peripheral sidewall extending upwardly from the tray bottom. The collar then is positioned

against the preformed tray peripheral wall and bonded thereto. This method of fabricating a tray is not disclosed or suggested by Chazal et al.

The Examiner noted that Chazal et al bend the sidewalls 41-48 and position the collar 10 on the sidewalls in the same mold (simultaneous bending and positioning). Securing tabs 41-48 of Chazal et al are not sidewalls. The Examiner also indicates that it would be obvious to separately form the parts 10, 11 in Chazal et al as allegedly suggested by Gics and/or Albano et al.

Both Gics and Albano et al disclose cup-like containers of two different materials, such as plastic and paperboard. Both layers are cup-like, and one is positioned inside the other. Gics and Albano et al provide an outer layer of paperboard to facilitate printing on the container and to provide insulation.

Neither Gics nor Albano et al suggest forming the Chazal et al flange/sidewall blank 10 and bottom blank 11 separately followed by assembly of same. The nature of the Chazal et al container is not conducive to such a method of forming and assembly.

The Chazal et al flange/sidewall portion 10 has sidewalls 31-34 that extend the full height of the finished container and form the container peripheral sidewall. The bottom 11 has side panels 41-44 and side flanges 46-48 that are spaced-apart from one another and are positioned inside of the container sidewalls 31-34 adjacent the bottom thereof. There is no disclosure or suggestion in the references that provides a motivation for a person of ordinary skill in the art to form the Chazal et al flange/sidewall 10 and bottom 11 separately, and then assemble same. In fact, there is no suggestion of how this would be done when the bottom blank must be positioned inside of the flange/sidewall blank.

The Chazal et al bottom blank 11 could not be held in a desired shape in a first mold while the flange/sidewall blank 10 is positioned with its sidewalls 31-34 outside of the bottom blank attachment tabs 41-48. Positioning the Chazal et al sidewalls 31-34 of the flange/sidewall blank 10 inside of the attachment tabs 41-48 of the bottom blank 11 is not suggested by the art, and there is no motivation for a person of ordinary skill in the art to make such a modification because the exterior of the container no longer would be smooth due to the shoulder at the top ends of the attachment tabs 41-48 on the bottom blank 11.

Chazal et al bonds the panels and flanges 41-48 of the bottom blank 11 to the sides 31-34 of the flange/sidewall blank 10 by way of a thermo-formed layer 2 that lines the entire interior of the container. There is no adhesive between the facing surfaces of the container sidewalls 31-34 and the tabs 41-48 on the bottom 11. See lines 30-49 of column 4, lines 50-68 of column 8, lines 1-9 of column 9, lines 51-66 of column 10, and numerous references to the thermo-formed layer 2 in column 11 and 12.

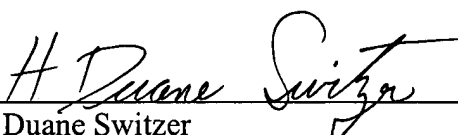
Chazal et al bond the formed blanks 10 and 11 together by way of a thermo-formed layer that covers the entire interior of the container. See lines 37-42 of column 4. The securing tabs defined by the panels and flanges 41-48 on the bottom 11 could not be placed outside of the sidewalls 31-34 of the blank 10 without completely redesigning the entire container and its manner of assembly. Chazal et al does not disclose or suggest bonding of selective areas such as recited in claim 108, or providing adhesive between facing surfaces such as recited in claims 105 and 114.

Chazal et al actually has a flange/sidewall part 10 with sidewalls 31-34 and a flange 30, and a bottom part 11 with spaced-apart tabs 41-48 for positioning inside of sidewalls 31-34. The

bottom part 11 is not a tray with a peripheral sidewall, and the part 10 is not a mere flange forming collar that is attached to a tray sidewall as claimed.

In the absence of more pertinent art, this application is now in condition for allowance and an early notice to that effect is earnestly solicited.

Respectfully submitted,



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Fig. 1



WO 99/67143

PCT/EP99/04399

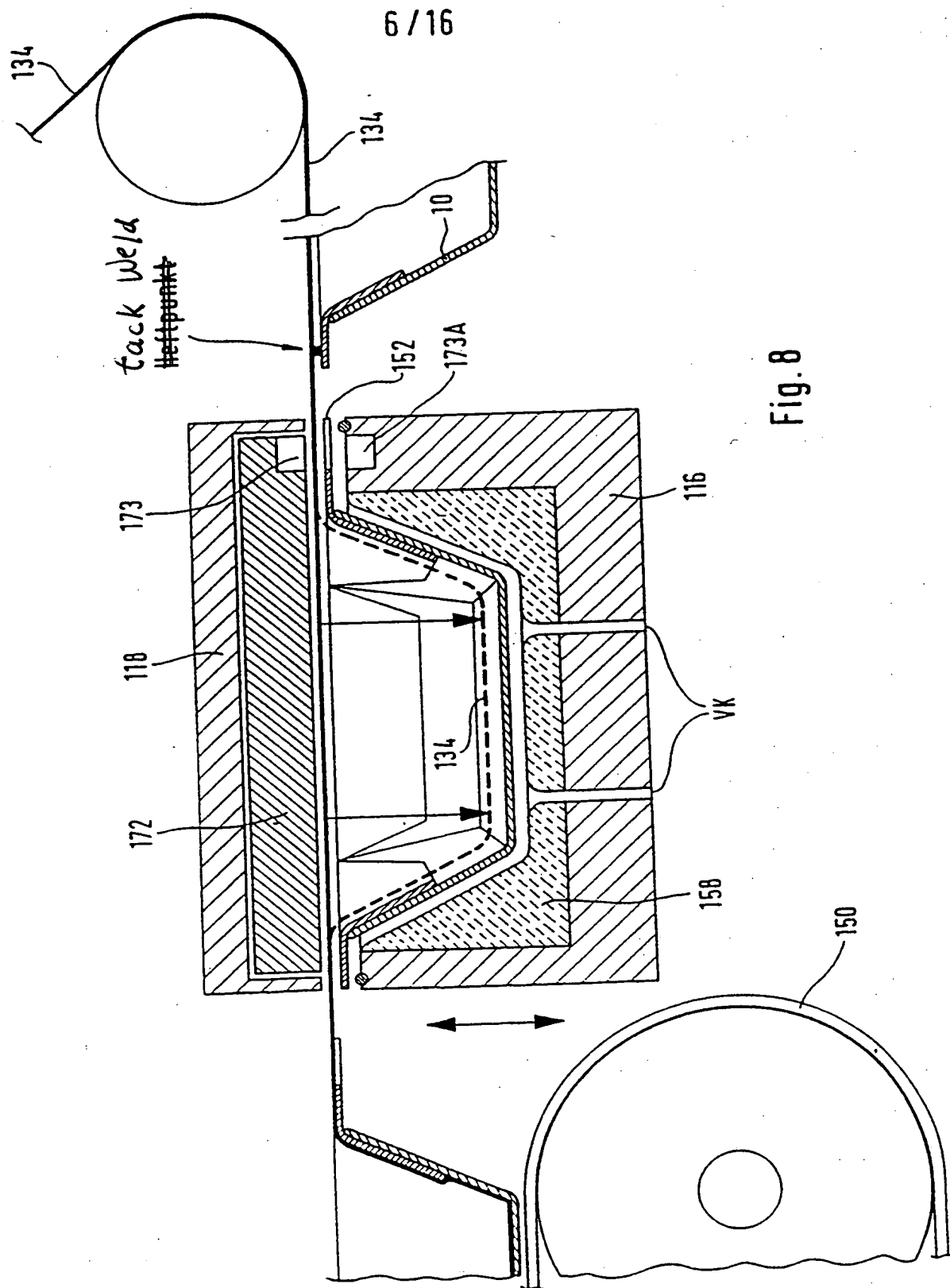


Fig. 8



WO 99/67143

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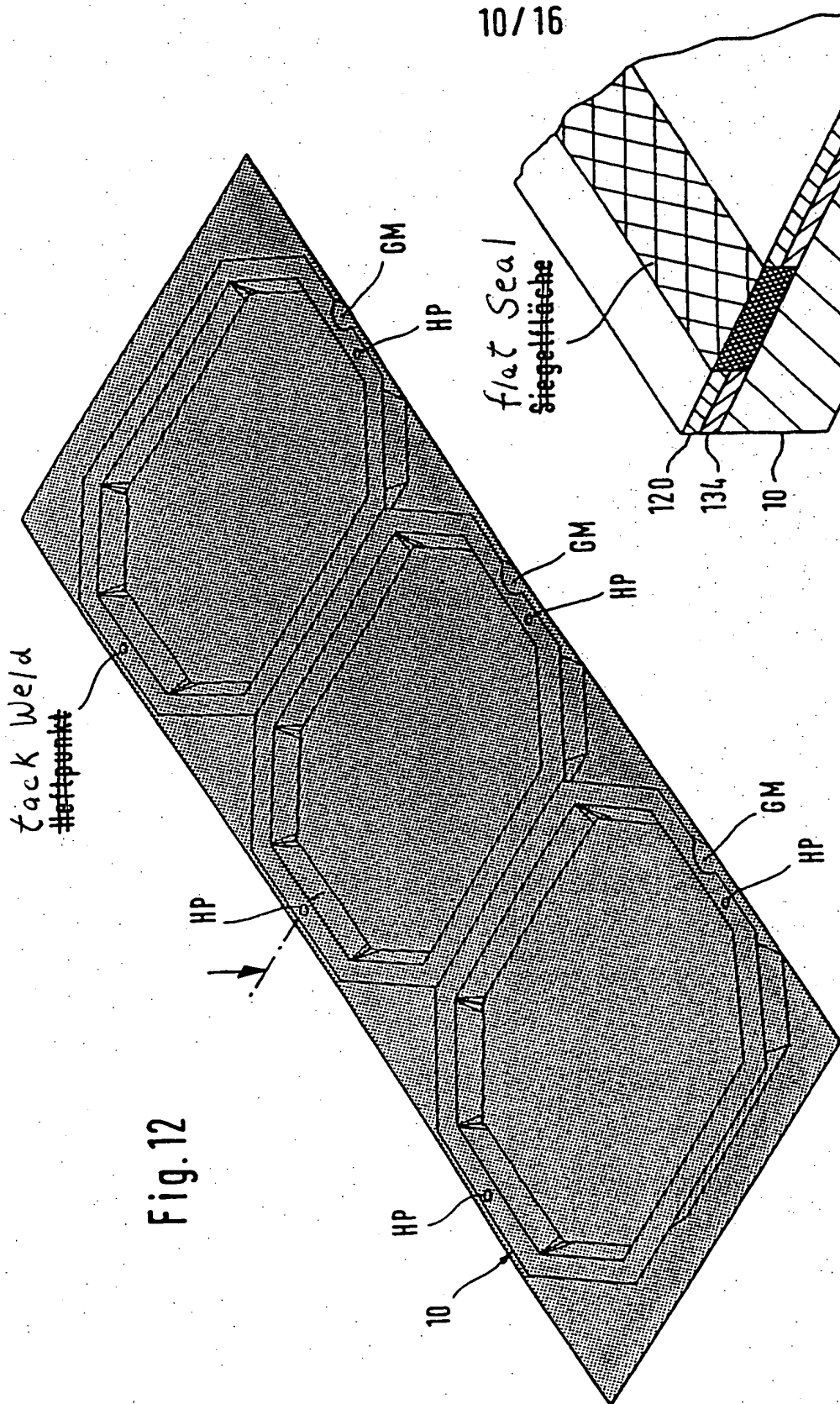


Fig. 12

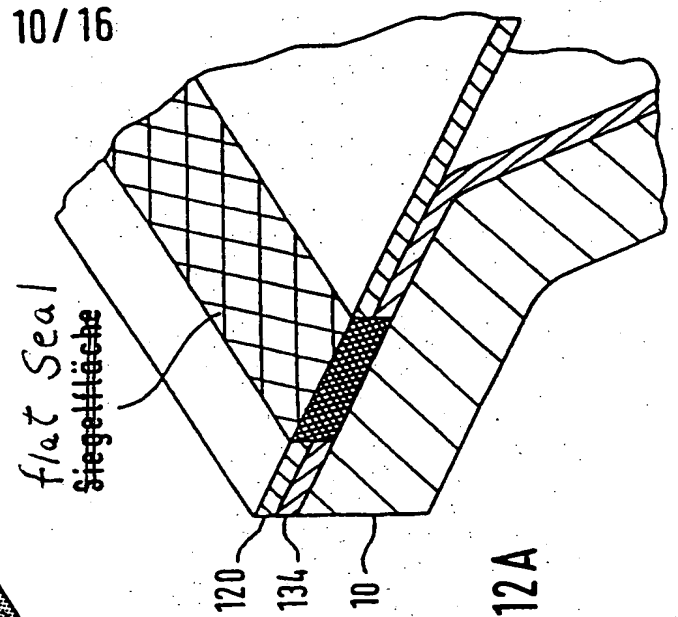


Fig. 12A



WO 99/67143

PCT/EP99/04399

15/16

Fig. 17

